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TO THE
GRAND JURIES
OF THE *R Lloyd*
City of London and County of Middlesex.

AMONG the important duties, which you are called upon to perform, the presentment of public grievances is not the least; to your care is peculiarly entrusted, a cognizance of the police of the public prisons; when such police in its administration, tends to destroy the few remaining rights a prisoner possesses under the law, and proceeds to abridge those indulgencies humanity enjoins, it behoves you, in an especial manner, to notice the oppression, arrest its progress, prevent the like in future, and to obtain for the injured, a compensation for the injuries they have already sustained.

When a man is in the hands of Justice, Justice ought to protect him: when he is at liberty, he is in many cases able to defend himself; but when he is in the custody of the law, and is thereby disabled from being his own defender, the law ought to be his security and defence against any injurious treatment whatever.

Under the impression, that the performance of these things, is not only, what your oaths require, but what also your inclinations prompt, I bring to your notice, some particulars, respecting the improper conduct of the Jailer of Newgate, and extortions and oppression practised by his connivance.

The honourable testimony, which the British nation gave, of their love of humanity and benevolence, to their incarcerated fellow creatures, as manifested in their laudable attempt, to erect a monument to Howard the Philanthropist, is too well known, to render it necessary for me, to insist upon what is the proper construction of that part of the English law, which relates to imprisonment. "*Severos quidem facit justitia, inhumanos non facit.*" "Justice makes men severe, but not inhuman," 2 Co. Inst. 315.

It is a general principle in criminal law, that all punishments below capital, are intended to reform the criminal, and deter him from offending again. And it is said by Blackstone, Vol. IV. §77, to be one of the glories of the English law, that the punishment is ascertained for every offence, and that it is not left in the breast of any Judge, or other officer, to alter that judgment which the law has before ordained, for every subject alike, without respect of persons: while on one side, this prevents oppression, on the other, it stifles all hope of impunity or mitigation, with which the offender might flatter himself. But how, I would ask, is this glory due to English law, when a Jailer, with uncontradicted authority variegates the punishment according to his discretion? Or how are criminals to be reformed by imprisonment in Newgate? where, as the jail is managed, it is to be feared, more rogues are bred up and hardened, than the law either reclaims or removes. It is true, that those who arranged this building, as well as all the other modern Jails in England, judiciously contrived, that the several grades of criminals might be kept separate; but it is equally true, that the Jailer of this place, has as injudiciously contrived to frustrate that intention. The Prison divided as it is by distinct yards, is calculated to prevent young novices, from contracting an intimate acquaintance
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and familiarity with old offenders, by whom they are too often matured in vice and sublimed to the height of depravity. Was the Jailer compelled by you to pay a due regard to the duties of his Office, Newgate might then be changed, from a School and Nursery of all manner of roguery and wickedness, to a proper place of correction and amendment. No longer would the raw and unexperienced offender, who enters with some sense of shame and modesty, become, during his confinement, an impudent and hardened villain, ready, the moment he is set at liberty, like an hungry and ravenous wolf, to ravage and stain with human gore every avenue of the metropolis.

Having remarked thus far upon the general principle, I shall proceed, to state what the English law has directed under its influence, touching the separation and classing of prisoners. Howard, if I recollect right, wrote his celebrated work on the state of the Prisons in 1777. The Parliament, to whom it was dedicated, undertook upon his plan to reform the jails. And in 1784, a law was passed, authorizing the enlargement, alteration, and rebuilding of Prisons: the fourth section of this law, by lawyers technically entitled 24 Geo. III. chap. 54, enacts, "That the Justices of Quarter Session, shall pursue such measures, as shall provide separate and distinct places of confinement, with dry and airy cells, *in which the several prisoners, of the following descriptions respectively, may be confined, as well by day as by night, viz.* "Prisoners convicted of felony; Prisoners committed for, or adjudged to be guilty of misdemeanors only; and Debtors; the males of each class to be separated from the females, and a separate place of confinement to be provided for such prisoners as are intended to be examined as witnesses, on behalf of any prosecution, of any indictment for felony." And by another law, passed but two years since, it is enacted, "That all rules, orders, and regulations, for the separating and classing of prisoners, and the securing just and humane treatment by Jailers, directed by 24 Geo. III. chap. 54, shall be exactly conformed to." This latter law seems to imply, that the law of 1784 was disregarded by Jailers! or why re-enact it? But the law of 1791, as well as the law of 1784, is equally disregarded by the Jailer of Newgate.

This Prison forms three quadrangles, and a place of cells. The first is properly denominated the Debtors-side: it contains none but Debtors. The second is as properly termed the State-side: it ought to contain none but persons for misdemeanors, and offences against the State; it is, however, divided into two parts, with distinct yards; the one occupied by women felons; the other—notwithstanding the evident intention of those who ordered and directed the erection of the Prison—notwithstanding the injunctions of a positive statute, is occupied promiscuously, by persons charged with, and convicted of, misdemeanors, and men-felons, committed for, or adjudged guilty of felonies, whose pecuniary resources, enable them to pay for the indulgence. This arrangement has, I apprehend, forced me over to the Felons-side; for had I been content to pay the extortionate demands of a mercenary Jailer, as others were, he never would have removed me ONLY, for signing a certificate, in common with JOHN FROST, JAMES RIDGWAY, and HENRY DELAHAY SYMMONDS, respecting Dr. LETTSOM's declaration, of the existence of the Jail-distemper, raging in this place, the latter end of last October, and the beginning of November.

Existing circumstances, not unlike the arrangement to which I have already alluded, have hitherto kept Capt. Lieut. JOHN CUMMINGS, charged with a misdemeanor among Felons of the deepest atrocity: it has also kept Dr. ROBERT THOMAS CROSFIELD, in a like situation for a similar offence, as well as Dr. WILLIAM HODGSON, who has recently been tried, for declaring the British King to be no better than a hog-butcher, in giving up his Hanoverian subjects, to be led to the slaughter, for thirty pounds a head, which declara-

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tion of his, was stated to be a *misdemeanor only*. And here let me note, the illiberality of the Jailer, who forced Dr. HODGSON into a *solitary cell*, for noticing his (the Jailer's) indecent language, and not paying him some admission fees, to which he supposed himself entitled. The center, and much the largest quadrangle, called the Felons-side, is divided into three separate yards, each of which, is indiscriminately, the receptacle for felons-convict, and persons committed for trial; as also of persons guilty of, or committed for, misdemeanors only.

It may be matter of astonishment to you, that an officer, bound to return a state of his Jail on oath, once a year, should have the temerity to act in this criminal manner; to abate which, allow me to point out to you, what appears to be the inducement. The State-side, is allowed to be open to visitors, from eight o'clock in the morning till nine at night; the prisoners, in general, have each a room, for which they pay the Jailer one guinea admittance fee, and seven shillings each per week. A person, possessed of money, desirous of purchasing superior accommodations, is admitted on that side, without regard to his crime. The more frequently the lodgers are changed, the oftner the Jailer receives his admittance fee; *but if prisoners, imprisoned for misdemeanors, were to remain there of right, they could not be expected, even by avarice itself, to pay for it.* And as all those, confined on the State-side, for libels and sedition, have pretty long sentences, twelve rooms, producing to the Jailer, at the rate of Two Hundred and Eight Guineas per annum, would no longer yield him an extortionate revenue. Certainly, this vast gain, is a temptation too strong to be resisted, by one of that corps of tyrants, who, as Burges, one of the present Under Secretaries of State declares "*to be selected, from the dregs of mankind, for their eminent worthlessness.*"

The Felons-side is, in every point of view, a mansion of misery and wretchedness; yet even here, in the midst of hunger, of disease, and of nakedness, rapine finds the means of gorging its voracious maw!! Such few of the miserable tenants, as have any of the plunder left, which their depredations procured, are obliged to surrender it, to the myrmidons of the place, under the pretence of being accommodated with better rooms, or beds, or other indulgences; but then, here, as in the case of the State side, *money is the passe-partout*, the master key; it procures to the felon-convict, the murderer, the man who has been tried, the man who has not been tried, the transport, the reprieved; and, in short, every offender of whatsoever grade, equal accommodations on the same side, and in the same room; notwithstanding, by 31st Geo. III. chap. 46, sect. 9, it is enacted, "*that as long as any person, under sentence of transportation, shall continue in the common jail, the Jailer shall separate such convict, as far as conveniently may be, from every person, in his custody, except prisoners convicted of felony.*"

Allow me in this place, to digress, for a moment, in order to mention, that there is a man here, who has been confined *seven years and more without trial*, notwithstanding the frequent sessions of jail-deliveries, which have been since held. And, that the prison appears at this time, to be almost too strait for its inhabitants. The convicts are retained, and the continual addition of new prisoners, renders the crowd so great, as may cause those contagious distempers, which are wont to rage so violently, not even confining themselves within the prison walls, but sometimes spreading their infection, in the very court, where the prisoners are brought for trial, to the no small hazard of Judges, juries, witnesses, and all who attend there, dreadful instances of which are within the memories of the men of our own times. It is well observed by Burn, Vol. II, p. 448, "that human nature will plead for these miserable objects; that their condition be rendered as tolerable as the nature of the case will admit of, particularly with regard to cleanliness, which is the parent of
"health,

"health, and wholesome air, which is life itself." In conformity with these humane sentiments, regulations were established by 14th Geo. III. chap. 59, under which, the Justices are authorized, to provide such accommodations in jails, as may be necessary to answer these salutary purposes. Consequently, particularly at this inclement season, a proper proportion of bed-clothes and raiment should be provided, and at all times the exaction of room or bed-rent should be done away.

Another matter of complaint, which I shall state in the language of the collectors of the State Trials, is, that intolerable and inhuman practice of the Jailer, or those he employs, who, to extort from their unhappy guests, such sums as they shall think fit to exact, load them, as soon as they arrive within their dominions, with fetters and irons, till they can bring them to a compliance with their unjust demands; the *pretence* may indeed be, that they are answerable for their prisoners, and therefore ought to be allowed the use of proper means to secure them. That this is nothing but *pretence* is sufficiently plain, money being generally able to procure a release from their shackles, which do then become no longer necessary for the safeguard of the prisoner, *having already answered their real design.*

Though Jailers are indeed answerable for their prisoners, yet neither the law of England, nor common humanity esteems such means as *proper* in ordinary cases; they may make their prisons as strong as they can, may set what guards and keepers they will to watch them, but must use no force nor violence to their persons; no tortures, nor pains, while the prisoners quietly submit themselves to the process of the law, "*Cacer ad continendos homines non ad puniendos haberi debet.*" Digest. lib. 48, tit. 19, de Pænis L. 8. sect. 9, Bracton, L. 3. fol. 154, 6. 2. Cok. inst. 43. Prisons are designed for the *custody* of Prisoners, not for their *punishment*, unless when it becomes part of the sentence, and even then it is no otherwise intended as a punishment, than by way of *confinement to the prison, not as a justification of any ill usage in it.*

If a prisoner is boisterous and unruly, or makes an attempt to escape; or perhaps if he only threatens to do so, in such case it may be allowable to use a stricter discipline. Judge Coke says, 3d. inst. p. 34, in the margin, "That shackles about the feet ought not to be, but for fear of escape." If these words have any meaning, they must import, that unless a prisoner has given *just cause to apprehend an escape*, he ought not to be fettered; otherwise it may be *pretended of all prisoners*, let them behave never so peaceably and civilly, who will by this means lie at the mercy of Jailers, whose very mercies are cruelties.

The same author says in another place, *ibid* 35, when the law requires that a prisoner should be kept *in salva et arcta custodia*, in safe and close custody, yet that must be without pain or torment to the prisoner, which chains and fetters undoubtedly are.

And again in his Comment, 2d inst. 381, in the statute of Westminster 2. c. 11, by which statute a Jailer is permitted, in a particular case, there mentioned, to lay his prisoner in irons, he makes this observation, "*That by the common law it might not be done.*"

There is one great absurdity in this practice, that by these means, the prisoner often suffers more, before he is tried, than the law inflicts on him when he is found guilty: but yet I know not how it comes to pass, it is too generally, and too notoriously practiced, to be either concealed or denied; and the fact is, that after conviction, if imprisonment only is the punishment, the shackles are usually knocked off.

This method of proceeding is by Coke 2. inst. 55, well resembled to that of Rhadamanthus the Judge of hell, who first punisheth and then heareth; or like as the Chief Captain did by Paul, Acts xxi. ver. 33, first ordering him to be bound

bound in chains, and then demanding of him who he was, and what he had done.

The other grievances are too numerous for me to particularize, nor indeed am I minutely enough informed, to state them with the desirable accuracy; the reason of this is—not, that the oppressions are so trifling, or so well concealed, as to require much search to discover and ascertain them, but, because ever since I have been confined on the Felons-side, I have secluded myself from the other prisoners; yet nevertheless, I have reason to complain.

1st. That the Turnkeys are extremely insolent to visitors, and frequently detain them at the gate from ten minutes to half an hour, both when coming in and going out. On the Felons-side, visitors are denied admittance, until after Twelve o'clock on Sunday; and every day till Nine o'clock, and sometimes they will not admit them at all. Again, we are locked up so early in the evening, as half past Four o'clock, and although this is the time most convenient to our friends to visit us, we are every day debarred such society, by this regulation.

2nd. Although the cisterns and pipes for supplying the water closets, were put in thorough repair a few months since, yet it frequently happens, that for several days together there is not a drop of water, to wash off the excrement and filth: how dangerous such putrid scents are, I need not insist upon; but allow me to mention, that last October, when my friend George Gordon, and T. T. Macan, were attacked by a putrid fever, and that too of the most malignant kind, of which they died—no water had been laid on to the water closets on the State-side, for nine days: nor as I am informed, was water laid on, on the Felons-side, for near six weeks.

3rd. Notwithstanding it is the duty of the Jailer, to visit and inspect the rooms daily, yet the Jailer of Newgate, has been but once in the room, where three others and myself are confined, since last Old Bailey Sessions. Nor during the time of Gordon's and Macan's illness, did he ever visit their rooms: whether prudence might have directed him to avoid the contagion of such a dreadful disease, or whether it arose from a disregard of, or want of compassion for the sick, it is impossible for me to say—it is enough that I state the fact.

4th. The windows on the Felons-side are unglazed, and the poor naked wretches are consequently exposed to all the rigor of this severe weather.

5th. Vinegar, to sprinkle the rooms is not duly furnished, and often refused when called for.

6th. When a condemned sermon is preached, the women are not admitted to attend. I should not have enumerated this, but that I understand their gallery on such occasions, is occupied by strangers, who pay for their admission.

7th. The beer, sold to the Felons, is generally of a bad quality; a better kind is provided for the prisoners on the State-side.

8th. The shop, which is kept here by one of the criminals, under the countenance of the Jailer, is a grievance instead of a convenience: the difficulty, which attends strangers coming in or going out, renders it impracticable for many of the poorest prisoners to procure necessaries, from shops out of doors, and they are thus compelled to take of the Jail shopkeeper, the worst commodities at the most exorbitant rates, curtailed both in weight and measure.

9th. Tubs of urine, which from time to time are sold, for the emolument of those employed about the prison, are kept standing in the yard; from which arise most offensive effluvia, dangerous to the health of the persons confined.

You will, no doubt, proceed to an enquiry, into the whole of these abuses; then permit me to caution you, against listening too credulously to what the Jailer or his myrmidons may urge in excuse, or what they may bring forward in

in their defence, as the evidence of even respectable characters. I am led to make this observation, from having seen the late report of Doctors Smith and Pitcairn, who *one day* visited this place by order of Government, extended to subjects, which could scarcely come into their view. *They declared that the Surgeon was regular in his attendance*, when it is notorious, he did not come near the gaol for *many months together*.

After apologizing for the egotism, allow me to conclude, with stating, that through the whole of my case, I have been subjected to unusual hardships: perhaps they have been inflicted, because I am one of those Citizens of the United States of America, who successfully fought to establish their independence—because I am the open enemy of the mercenaries of oppression and tyranny—one who has never declined to combat such monsters, whether armed with all the thunder of a throne, the ire of an indignant Judge, or the cruelties of a merciless Jailer. I have hitherto contemned, while I was well aware of the dangers to which such encounters necessarily exposed my person. On the present occasion I know the power of my adversary, very little encouragement on his part, would be sufficient to set on me in this place, some daring villain to execute the most treacherous intentions.

Felons-side of Newgate,

Jan. 15, 1794.

THOMAS LLOYD.

